

REMARKS

In the Office Action¹, the Examiner rejected claims 1-3, 9, 13-15, and 21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0013716 of Dunham et al. ("Dunham"); rejected claims 4-6, 8, 16-18, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Dunham; rejected claims 7, 12, 19, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Dunham in further view of U.S. Patent Application Publication No. 2003/0037063 of Schwartz ("Schwartz"); and rejected claims 10, 11, 22, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Dunham in further view of U.S. Patent No. 6,042,005 to Basile et al. ("Basile").

By this Reply, Applicants have amended claims 1, 6, and 13. Support for the amendments can be found throughout the specification at, for example, page 9, lines 3-26; page 29, lines 11-30; and FIG. 15. Claims 1-24 are currently pending, with claims 1 and 13 being independent. Based on the foregoing amendments and following remarks, Applicants respectfully request reconsideration and withdrawal of the claim rejections.

I. The Rejection of Claims 1-3, 9, 13-15, and 21 Under 35 U.S.C. § 102(b) Based on Dunham

The Examiner rejected claims 1-3, 9, 13-15, and 21 under 35 U.S.C. § 102(b) as being anticipated by Dunham. Applicants respectfully traverse this rejection.

¹ The outstanding Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the outstanding Office Action.

In order to properly anticipate claims under 35 U.S.C. § 102, a cited reference must explicitly disclose each and every element recited in the claims. See M.P.E.P. § 2131, 8th Ed., (August 2005). If the reference fails to expressly set forth a particular element, then the Examiner must show that this element is inherently disclosed to substantiate a claim of anticipation. See In re Robertson, 169 F.3d 743, 745 (Fed. Cir. 1999). To establish inherency, the Examiner must specifically identify extrinsic evidence that makes clear to one skilled in the art that the missing element “is necessarily present” in the reference’s disclosure. See id.; see also Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991).

Applicants respectfully submit that Dunham does not disclose each and every element recited in amended independent claim 1. For example, amended independent claim 1 recites, among other things, “monitoring wellness of [a] child based on . . . child status information to determine whether abuse or neglect of the child has occurred” and “providing a report based on the stored child update information and the wellness of the child.” Dunham does not disclose at least this recited element of amended independent claim 1.

Instead, Dunham is directed to “methods and systems that **manage** the provision of care **by driving care providers to follow the wraparound process** in the provision of care.” Dunham, Abstract (emphasis added). “The overriding principle of the wraparound process is to prevent the placement of an individual (i.e., client) that is in need of care into a long-term institutional setting. The wraparound philosophy involves the people closest to the individual and the care providers in the local community in the

plan of care of the individual.” Dunham, paragraph [0043]. “At [an] initial team meeting [among the people closest to the individual and the care providers], a plan of care is formulated by the team members.” Dunham, paragraph [0012]. “The team meets regularly **to make sure the plan of care is working** or to adjust the plan as needed. **The monitoring of the plan of care is an important aspect** of the wraparound process **to ensure the process is moving forward in an efficient manner.**” Dunham, paragraph [0013]. The systems of Dunham “concentrate best resources available into assuring the most effective outcomes for clients in need of care.” Dunham, paragraph [0022].

Thus, the systems of Dunham ensure compliance with a specified **plan** of care (or work under the plan). Dunham does not disclose “monitoring wellness of the child based on the child status information to determine whether abuse or neglect of the child has occurred,” as recited in amended independent claim 1. Dunham also does not disclose “providing a report based on the stored child update information and the wellness of the child,” as recited in claim 1.

For at least these above reasons, Dunham fails to support the § 102(b) rejection of amended independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102(b) rejection of claim 1 based on Dunham.

Amended independent claim 13, although of different scope, recites features that are similar to features recited in amended independent claim 1. For at least the reasons set forth with respect to amended independent claim 1, Dunham fails to support the § 102(b) rejection of amended independent claim 13. Accordingly, Applicants

respectfully request reconsideration and withdrawal of the § 102(b) rejection of claim 13 based on Dunham.

Claims 2, 3, and 9 depend from amended independent claim 1, and claims 14, 15, and 21 depend from amended independent claim 13. Thus, claims 2, 3, 9, 14, 15, and 21 incorporate the elements that are missing from Dunham, as discussed above. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102(b) rejection of claims 2, 3, 9, 14, 15, and 21 based on Dunham.

II. The Rejection of Claims 4-6, 8, 16-18, and 20 Under 35 U.S.C. § 103(a) Based on Dunham

Applicants respectfully traverse the § 103(a) rejection of claims 4-6, 8, 16-18, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Dunham. A *prima facie* case of obviousness has not been established with respect to claims 4-6, 8, 16-18, and 20.

“The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements.” M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. § 2143.01(III) (emphasis in original). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03. “In determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether

the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02 (I) (emphases in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Claims 4-6 and 8 depend from amended independent claim 1, and claims 16-18 and 20 depend from amended independent claim 13. As explained above with respect to amended independent claims 1 and 13, Dunham fails to disclose “monitoring wellness of [a] child based on . . . child status information to determine whether abuse or neglect of the child has occurred” and “providing a report based on the stored child update information and the wellness of the child,” as recited in amended independent claim 1, and similarly in amended independent claim 13.

In view of the above-noted deficiencies of the Dunham reference, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of claims 4-6, 8, 16-18, and 20. Thus, the Office Action has failed to clearly articulate a reason why claims 4-6, 8, 16-18, and 20 would have been purportedly obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of

obviousness has not been established with respect to dependent claims 4-6, 8, 16-18, and 20, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

III. The Rejection of Claims 7, 12, 19, and 24 Under 35 U.S.C. § 103(a) Based on Dunham and Schwartz

Applicants respectfully traverse the § 103(a) rejection of claims 7, 12, 19, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Dunham in view of Schwartz. A *prima facie* case of obviousness has not been established with respect to claims 7, 12, 19, and 24.

Claims 7 and 12 depend from amended independent claim 1, and claims 19 and 24 depend from amended independent claim 13. As explained above with respect to amended independent claims 1 and 13, Dunham fails to disclose “monitoring wellness of [a] child based on . . . child status information to determine whether abuse or neglect of the child has occurred” or “providing a report based on the stored child update information and the wellness of the child,” as recited in amended independent claim 1.

Schwartz fails to cure the deficiencies of Dunham. Instead, Schwartz is directed to “system and method for assessing risk, monitoring risk, and managing caseloads of individuals under risk assessment is provided.” Schwartz, Abstract. Because Schwartz is directed to “monitoring risk,” Schwartz fails to teach or suggest “monitoring wellness of the child based on the child status information to determine whether abuse or neglect of the child has occurred,” as recited in amended independent claim 1. The Office Action does not allege otherwise. Office Action at 4-5.

In view of the above-noted deficiencies of the Dunham and Schwartz references, the Office Action has neither properly determined the scope and content of the prior art

nor properly ascertained the differences between the prior art and the invention of claims 7, 12, 19, and 24. Thus, the Office Action has failed to clearly articulate a reason why claims 7, 12, 19, and 24 would have been purportedly obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to dependent claims 7, 12, 19, and 24, and the rejection under 35 U.S.C. § 103(a) must be withdrawn.

IV. The Rejection of Claims 10, 11, 22, and 23 Under 35 U.S.C. § 103(a) Based on Dunham and Basile

Applicants respectfully traverse the § 103(a) rejection of claims 10, 11, 22, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Dunham in view of Basile. A *prima facie* case of obviousness has not been established with respect to claims 10, 11, 22, and 23.

Claims 10 and 11 depend from amended independent claim 1, and claims 22 and 23 depend from amended independent claim 13. As explained above with respect to amended independent claims 1 and 13, Dunham fails to disclose “monitoring wellness of [a] child based on . . . child status information to determine whether abuse or neglect of the child has occurred” or “providing a report based on the stored child update information and the wellness of the child,” as recited in amended independent claim 1.

Basile fails to cure the deficiencies of Dunham. Instead, Basile is directed to “[a] personal identification system for children that includes two forms of identification.” Because Basile has nothing to do with monitoring, Basile fails to teach or suggest “monitoring wellness of the child based on the child status information to determine

whether abuse or neglect of the child has occurred,” as recited in amended independent claim 1. The Office Action does not allege otherwise. Office Action at 5.

In view of the above-noted deficiencies of the Dunham and Basile references, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of claims 10, 11, 22, and 23. Thus, the Office Action has failed to clearly articulate a reason why claims 10, 11, 22, and 23 would have been purportedly obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to dependent claims 10, 11, 22, and 23, and the rejection under 35 U.S.C. § 103(a) must be withdrawn.

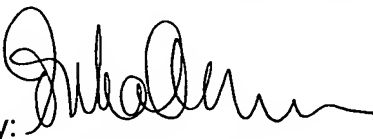
V. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By: 

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